

117TH CONGRESS
1ST SESSION

H. R. 4611

To direct the Secretary of Homeland Security to issue guidance with respect to certain information and communications technology or services contracts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2021

Mr. TORRES of New York (for himself and Mr. GARBARINO) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To direct the Secretary of Homeland Security to issue guidance with respect to certain information and communications technology or services contracts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “DHS Software Supply

5 Chain Risk Management Act of 2021”.

1 **SEC. 2. DEPARTMENT OF HOMELAND SECURITY GUIDANCE**
2 **WITH RESPECT TO CERTAIN INFORMATION**
3 **AND COMMUNICATIONS TECHNOLOGY OR**
4 **SERVICES CONTRACTS.**

5 (a) **GUIDANCE.**—The Secretary of Homeland Security, acting through the Under Secretary, shall issue guidance with respect to new and existing covered contracts.

8 (b) **NEW COVERED CONTRACTS.**—In developing guidance under subsection (a), with respect to each new covered contract, as a condition on the award of such a contract, each contractor responding to a solicitation for such a contract shall submit to the covered officer—

13 (1) a planned bill of materials when submitting a bid proposal; and

15 (2) the certification and notifications described in subsection (e).

17 (c) **EXISTING COVERED CONTRACTS.**—In developing guidance under subsection (a), with respect to each existing covered contract, each contractor with an existing covered contract shall submit to the covered officer—

21 (1) the bill of materials used for such contract, upon the request of such officer; and

23 (2) the certification and notifications described in subsection (e).

25 (d) **UPDATING BILL OF MATERIALS.**—With respect to a covered contract, in the case of a change to the infor-

1 mation included in a bill of materials submitted pursuant
2 to subsections (b)(1) and (c)(1), each contractor shall sub-
3 mit to the covered officer the update to such bill of mate-
4 rials, in a timely manner.

5 (e) CERTIFICATION AND NOTIFICATIONS.—The cer-
6 tification and notifications referred to in subsections
7 (b)(2) and (c)(2), with respect to a covered contract, are
8 the following:

9 (1) A certification that each item listed on the
10 submitted bill of materials is free from all known se-
11 curity vulnerabilities or defects identified in—

12 (A) the National Institute of Standards
13 and Technology National Vulnerability Data-
14 base; and

15 (B) any database designated by the Under
16 Secretary, in coordination with the Director of
17 the Cybersecurity and Infrastructure Security
18 Agency, that tracks security vulnerabilities and
19 defects in open source or third-party developed
20 software.

21 (2) A notification of each security vulnerability
22 or defect, if identified, through—

23 (A) the certification of such submitted bill
24 of materials required under paragraph (1); or
25 (B) any other manner of identification.

1 (3) A notification relating to the plan to mitigate,
2 repair, or resolve each security vulnerability or
3 defect listed in the notification required under para-
4 graph (2).

5 (f) ENFORCEMENT.—In developing guidance under
6 subsection (a), the Secretary shall instruct covered officers
7 with respect to—

8 (1) the processes available to such officers en-
9 forcing subsections (b) and (c); and

10 (2) when such processes should be used.

11 (g) EFFECTIVE DATE.—The guidance required under
12 subsection (a) shall take effect on the date that is 180
13 days after the date of the enactment of this section.

14 (h) DEFINITIONS.—In this section:

15 (1) BILL OF MATERIALS.—The term “bill of
16 materials” means a list of the parts and components
17 of an end product or service, including, with respect
18 to each part and component, information relating to
19 the origin, composition, integrity, and any other in-
20 formation as determined appropriate by the Under
21 Secretary.

22 (2) COVERED CONTRACT.—The term “covered
23 contract” means a contract relating to the procure-
24 ment of covered information and communications

1 technology or services for the Department of Home-
2 land Security.

3 (3) COVERED INFORMATION AND COMMUNICA-
4 TIONS TECHNOLOGY OR SERVICES.—The term “cov-
5 ered information and communications technology or
6 services” means the terms—

7 (A) “information technology” (as such
8 term is defined in section 11101(6) of title 40,
9 United States Code);

10 (B) “information system” (as such term is
11 defined in section 3502(8) of title 44, United
12 States Code);

13 (C) “telecommunications equipment” (as
14 such term is defined in section 3(52) of the
15 Communications Act of 1934 (47 U.S.C.
16 153(52))); and

17 (D) “telecommunications service” (as such
18 term is defined in section 3(53) of the Commu-
19 nications Act of 1934 (47 U.S.C. 153(53))).

20 (4) COVERED OFFICER.—The term “covered of-
21 ficer” means—

22 (A) a contracting officer of the Depart-
23 ment; and

24 (B) any other official of the Department as
25 determined appropriate by the Under Secretary.

1 (5) SOFTWARE.—The term “software” means
2 computer programs and associated data that may be
3 dynamically written or modified during execution.

4 (6) UNDER SECRETARY.—The term “Under
5 Secretary” means the Under Secretary for Manage-
6 ment of the Department of Homeland Security.

○